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STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF THE :
DISCIPLINARY PROCEEDINGS AGAINST :
: FINAL DECISION AND ORDER
:
DAVID K. EGAN and CHARLES J. : LS0510193APP
SCHLESSELMAN, :
RESPONDENTS. :

Division of Enforcement Case No. 03 APP 015

The parties to this action for the purposes of Wis. Stat. § 227.53 are:

David K. Egan
1536 S. Church St.
Watertown, WI 53094

Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Real Estate Appraisers Board
Department of Regulation & Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

The parties in these matters agree to the terms and conditions of the attached Stipulation as the final decision of the matter(s), subject to the approval of the Real Estate Appraisers Board (“Board”). The Board has reviewed the Stipulation agreement annexed to this Final Decision and Order, and considers it acceptable. Accordingly, the Board adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. David K. Egan (“Respondent”), whose date of birth is April 7, 1943, possesses a certificate of licensure and a certificate of certification to practice as a Certified General Appraiser and Licensed Appraiser in the state of Wisconsin (#10-204). The certification was first granted on February 21, 1992.
2. Respondent’s last address of record reported to the Department of Regulation and Licensing (“Department”) is 1536 S. Church Street, Watertown, WI 53094.
3. Respondent is the owner of Egan Appraisal Services, Inc.
4. On April 25, 2002, Charles Schlesselman transmitted to a client, which was a lending institution an appraisal of a property located at 1223 Wakota Street, Watertown, Wisconsin (“2002 appraisal”). The cover sheet of the 2002 appraisal

report stated that the 2002 appraisal was conducted by Egan Appraisal Services, David K. Egan, Certified General Appraiser, and Charles J. Schlesselman, Licensed Appraiser, and that the subject property was then being used as a pallet factory. At least one version of the 2002 appraisal report received by the Department of Regulation and Licensing contains the signatures of both Mr. Schlesselman and Mr. Egan. The estimated value of the subject property involved in this commercial appraisal was \$160,000.

5. On January 30, 2003, Mr. Schlesselman transmitted to a client, R.D., the employee of the pallet factory referred to in paragraph 4, above, an appraisal of a separate property owned by the same corporation ("2003 appraisal"). The 2003 appraisal report bore the signature of both Mr. Schlesselman and Mr. Egan. The estimated value of the subject property involved in the 2003 appraisal was \$395,000.

6. Uniform Standards of Professional Appraisal Practice ("USPAP") Standards Rule 2-3 (Comment) (2002 and 2003 editions) states that, "An appraiser who signs any part of the appraisal report, including the letter of transmittal, must also sign this certification." Rule 2-3 (Comment) further states that, "Any appraiser who signs a certification accepts full responsibility for all elements of the certification, the assignment results, and for the contents of the appraisal report."

7. USPAP Standards Rule 1-1(c) (2002 and 2003 editions) contains binding requirements, from which departure is not permitted, and states that, "In developing a real property appraisal, an appraiser must: ... not render appraisal services in a careless or negligent manner, such as by making a series of errors that, although individually might not significantly affect the results of an appraisal, in the aggregate affect the credibility of those results."

8. With respect to each appraisal a series of errors occurred, including, but not limited to, the following:

a. Both the 2002 and 2003 appraisal reports are declared to be a "limited appraisal," which is done when the Departure Rule has been used, yet each also states that "the Departure Provision of the USPAP does not apply," and neither report contains a specific statement as to where or when the Departure Rule has been utilized, contrary to USPAP Standards Rule 2-2(b)(xi) (2002, 2003).

b. "Market Value" is referenced on page 1 of the 2002 appraisal report, yet there is no definition of same or source for same included in the report, contrary to Standards Rule 2-2(b)(v) (2002).

c. The 2002 and 2003 appraisal reports do not adequately the subject properties' characteristics, e.g. building age, construction type, amount of office/restroom/other finished space, condition, type of HVAC, amount of unheated area (if any), etc., all contrary to Standards Rule 1-2(e) (2002, 2003).

d. The 2002 report fails to analyze comparable sales data in using the comparable approach, including, but not limited to, considering a 50-year-old building to be superior to 23 and 34-year-old buildings, without analysis or explanation, contrary to Standards Rule 1-4(a) (2002).

e. Failure to note that comparable sales numbered 5 and 6, which were selected by the appraisers for the 2002 appraisal report, were traded for one another thus dramatically impacting the sales data, which is an error of omission or commission contrary to Standards Rule 1-1(b) (2002).

f. Making deductions for economic obsolescence in both the 2002 and 2003 reports, but not providing any rationale for the level of deductions, contrary to Standards Rule 1-4(b)(iii) (2002, 2003).

g. In both the 2002 and 2003 appraisal reports, imputing a rent value without providing comparables and without a discussion of assumed lease terms, contrary to Standards Rule 1-4(c)(i),(ii) and (iii) (2002, 2003).

h. Mr. Egan signed both the 2002 and 2003 appraisal reports, yet failed to sign certification statements, contrary to Standards Rule 2-2(b)(xii) (2002, 2003).

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Appraisers Board has jurisdiction to act in this matter, pursuant to Wis. Stat. § 458 and is authorized to enter into the attached Stipulation and Order, pursuant to Wis. Stat. § 227.44(5).

2. By his conduct as set forth in paragraphs 3-4 and 8, above, Respondent Mr. Egan rendered appraisal services careless or negligent manner contrary to Standards Rule 1-1(c) (2002 and 2003), in the conduct and reporting of both the 200 appraisal and the 2003 appraisal.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The licensure and certification of Respondent, David K. Egan (#10-204), be, and hereby is, REPRIMANDED. Additionally, the licensure and certification of Respondent, David K. Egan (#10-204) shall be LIMITED for a period of no less than one year in the following manner: Respondent, David K. Egan, may not supervise or otherwise sign for or assume responsibility for any appraisal work with respect to any commercial appraisal performed by another. This limitation may only be removed by Respondent petitioning the Board for the removal of the limitation, which shall only be granted if Respondent has successfully taken and successfully completed the following courses offered by the Appraisal Institute, to include successful completion of the associated examination: Basic Appraisal Principles, Basic Appraisal Procedures, and General Applications.

IT IS FURTHER ORDERED that:

2. Respondent shall, within sixty (60) days from the date of this Order, pay partial costs of this proceeding in the amount of five hundred (\$500.00) dollars; with the balance being assessed to the other respondent in this matter.

Department Monitor
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935, Madison, WI 53708-8935
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3. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event that the Respondent fails to timely submit any payment of the partial cost as set forth above, or fails to comply with the ordered continuing education the Respondent's license (#10-204) SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

4. This Order is effective on the date of its signing.

REAL ESTATE APPRAISERS BOARD

By: Mark P. Kowbel
A Member of the Board

10/19/2005
Date